

STATE OF NORTH CAROLINA
COUNTY OF CALDWELL

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
20-R-_____

IN THE MATTER OF THE OPERATION
OF THE SUPERIOR COURT DIVISION
IN JUDICIAL DISTRICT 25-A

ORDER CONCERNING COURT
OPERATIONS FOR THE
APRIL 13, 2020 SESSION

This matter came on before Robert C. Ervin, Senior Resident Superior Court Judge, in the exercise of the Court's in chambers jurisdiction. The undersigned judge makes the following order subject to orders previously entered by Chief Justice Cheri Beasley of the Supreme Court of North Carolina.

1. On March 13, 2020, Chief Justice Cheri Beasley entered an order pursuant to N. C. Gen. Stat. 7A-39(b)(2) determining that catastrophic conditions resulting from a public health threat posed by COVID-19 exist in all counties of this state.
2. On April 2, 2020, Chief Justice Cheri Beasley entered a second order pursuant to N. C. Gen. Stat. 7A-39(b)(2) determining that "catastrophic conditions resulting from the COVID-19 outbreak have existed and continue to exist in all counties of this state."
3. Pursuant to the Chief Justice's second order, all superior court proceedings must be scheduled or rescheduled for a date no sooner than 1 June 2020. Emergency Directive 1.
4. The Chief Justice's second order permits proceedings to be held when "the proceeding will be conducted remotely." Emergency Directive 1, Exception a.
5. The Chief Justice's second order permits proceedings when "the proceeding is necessary to preserve the right of due process of law." Emergency Directive 1, Exception b.
6. The Chief Justice's second order permits proceedings when "the proceeding is for the purpose of obtaining emergency relief." Emergency Directive 1, Exception c.
7. Finally, the Chief Justice's second order permits proceedings when the senior resident superior court judge "determines that the proceeding can be conducted under conditions that protect the health and safety of all participants." Emergency Directive 1, Exception d.
8. Chief Justice Beasley further ordered the Clerk of Superior Court to post notices on the doors at all courthouse entrances directing persons who have likely been exposed to COVID-19 not to enter the courthouse.
9. The undersigned Superior Court Judge has reviewed the calendars for the April 13, 2020 Session of Criminal Superior Court in Caldwell County and conferred with representatives of the District Attorney's office.
10. It appears that there are eighteen felony cases and five misdemeanor cases set for trial during this session of court. In light of Chief Justice Beasley's order, jury trials will not be conducted.

11. There are roughly 30 defendants who have cases set on the motions or probation violations calendar. Many of these defendants are not represented by counsel.

Pursuant to the provisions of the orders entered by Chief Justice Cheri Beasley, it is hereby ordered for the purposes of the April 13, 2020 Criminal Calendar in Caldwell County that:

1. All trials will be continued to a future date to be determined by counsel for the parties.
2. No calendar call will be held for this session of court.
3. If any defendant, who is represented by counsel, desires to enter a plea of guilty, that matter may be scheduled by counsel and the presiding judge.
4. Any defendant in a probation violation case, who is unrepresented, will be sent a letter to permit them to advise the Court of his or her preference with respect to counsel. Any defendant who responds to this letter, will not be required to appear in open court.
5. Unrepresented defendants in probation cases, who fail to respond to this letter, shall appear in open court on April 13, 2020 at the times set forth on the following schedule so that the Court can address matters related to the determination of the status of counsel:

First letter in the Defendant's last name	Time to Appear
A-H	2:00 p.m.
I-Z	2:30 p.m.

6. If an attorney files a general appearance in any case on behalf of any unrepresented defendant prior to the beginning of this session of court, neither counsel nor the defendant will be required to appear in open court.
7. In cases where the defendant is incarcerated in the Caldwell County jail, the counsel determination may be addressed utilizing the available video equipment.
8. Any matters to be heard on the motions or probation violations calendar may be scheduled by counsel and the presiding judge.
9. Attorneys and probation officers are encouraged to attempt to resolve probations matters by consent and waiver of hearing if feasible. A form for use in this situation has been provided to defense counsel and probation officers. A revised form is attached to this order.
10. Any defendant or attorney who believes that they have been exposed to COVID-19 shall contact Lisa Miller at (828) 759-3608, the District Attorney's office or their attorney for further instructions prior to appearing in court.

This the ___ day of April 2020.

Robert C. Ervin
Senior Resident Superior Court Judge

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

COUNTY OF _____

____-CRS-_____

STATE OF NORTH CAROLINA

Vs.

CONSENT ORDER TO RESOLVE

PROBATION VIOLATION

Defendant.

This matter came on to be heard before _____, presiding over the _____, 2020 term of Superior Court on a pending probation violation against the defendant. In order to minimize the risk of the spread of Covid-19 and to permit the entry of an order in accordance with the agreement of the parties, it is hereby agreed that:

ADMISSION OF VIOLATION. The defendant, with the advice of counsel, agrees to admit that he or she willfully violated the terms and conditions of probation as alleged in the following paragraphs of the violation report:

WAIVER OF HEARING. Pursuant to N. C. Gen. Stat. 15A-1345(e), the defendant waives a probation revocation hearing and consents to the entry of an order modifying the terms and conditions of probation consistent with the provisions set forth below.

MODIFICATION OF CONDITIONS OF PROBATION. The State, the Probation officer, the defendant and the defendant's attorney agree and consent to the modification of the terms and conditions of the defendant's probation as follows:

(The Court recommends that the proposed modification be prepared on the standard AOC form and that the form be attached to this document as an exhibit and be signed by the parties.)

COUNSEL FEES. In cases where the defendant is represented by court-appointed counsel, the consent order needs to address the amount of counsel fees and the payment of those fees.

COUNTERPARTS. This consent order may be executed in counterparts to limit the need for all signatures to be present on the same document.

This the ____ day of _____, 2020.

Probation Officer

Defendant

Assistant District Attorney

Defendant's Attorney